

CITY OF NEWARK
DELAWARE

COUNCIL MEETING MINUTES

NOVEMBER 20, 2023

Those present at 7:00 p.m.:

- Presiding:

Deputy Mayor, District 6, Travis McDermott
District 1, John Suchanec
District 2, Corinth Ford
District 3, Jay Bancroft
District 4, Dwendolyn Creecy
District 5, Jason Lawhorn
- Staff Members:

City Manager Tom Coleman
City Secretary Tara Schiano
City Solicitor Paul Bilodeau
Finance Director David Del Grande *(Virtual)*
Parks & Recreation Director Joe Spadafino
Planning & Development Director Renee Bensley *(Virtual)*
Public Works & Water Resources Director Tim Filasky
Deputy Public Works & Water Resources Director Ethan Robinson *(Virtual)*
Chief Communications Officer Jayme Gravell *(Virtual)*
Chief Procurement & Projects Officer Jeff Martindale
Code Enforcement Manager George DeBenedictis *(Virtual)*
Deputy City Secretary Diana Reed

1. Mr. McDermott called the meeting to order at 7:00 p.m.
2. **SILENT MEDITATION & PLEDGE OF ALLEGIANCE**

Mr. McDermott asked for a moment of silence and the Pledge of Allegiance.

Mr. McDermott explained the procedures for the hybrid Microsoft Teams Meeting Platform. When beginning each item, the chair would call on the related staff member to present. When their presentation was complete, he would call on each Council member on the dais for comment. Following, he would call on remote Council members for comment. When a Council member had additional questions or comments, they should ask the chair to be recognized again after all members had the opportunity to speak. He instructed in-person attendees to sign up on the sign-in sheet near the entrance of the Council Chamber if they wished to provide public comment. At the appropriate time, the chair would call on them to speak. If virtual attendees wished to comment, they should use the hand-raising function in Microsoft Teams to signal the meeting organizer that they would like to speak. The Microsoft Teams chat would be disabled during the meeting. All lines would be muted until individuals were called on to speak, at which point the speaker’s mic would be enabled and they could unmute themselves to give comment. Public comments were limited to 5 minutes per person, and all speakers needed to identify themselves prior to speaking with their name and district or street address. When there were Council members attending remotely, he would call on them at the appropriate time for their vote. All votes were required to be audible and no visible voting would be accepted. He asked all Councilmembers using Teams at the dais to turn off their speakers and microphones to prevent feedback. He asked all attendees to keep cameras off until called on to speak.

MOTION BY MR. LAWHORN, SECONDED BY MR. SUCHANEC: TO REMOVE ITEMS 2E & 2F FROM THE CONSENT AGENDA AS THEY ARE OVER THE THRESHOLD AND PLACE THEM UNDER ITEM 3.

MOTION PASSED. VOTE: 6 to 0.

- Aye –Suchanec, Ford, Bancroft, Creecy, Lawhorn, McDermott.
- Nay – 0.
- Absent – 0.

3. PUBLIC PRESENTATIONS

A. General Assembly Update – Lobbyist (15 minutes)

2:32

James DeChene, Armitage, DeChene & Associates, stated the general assembly currently remains in recess. They will return the second week of January 2024. However, in between, there are three additional pre-file dates. This is a procedure where legislation can be submitted for pre-filing and assignment to committees. This provides a glimpse into what legislation will be approaching in January. There has been mention of approximately 50 bills so far between conception and final writing. In addition, many bills are expected to be introduced in the coming weeks. If any of these bills impact Newark, he will submit them to the City for review, guidance, and direction.

In a recent meeting with Rick Geisenberger, Secretary of Finance, they discussed October's Delaware Economic and Financial Advisory Council (DEFAC) meeting. Revenues coming into the State for the next fiscal year are expected to be down by 2%. For FY2025, it is expected to be up by 1.5%. He noted these numbers are prone to fluctuation with economic forces. The next DEFAC meeting is December 18th. The governor will construct his budget based on this forecast for introduction in mid-January. He noted a decrease in the revenue for next year opens the discussion of year-over-year expenses that continuously increase, but the general assembly has little control over. These could include contractual services, increases to Medicaid enrollees and disbursements, and the number of students in Delaware school systems and the funding required to educate them. It is projected these expenses will be \$300-\$400M for the upcoming fiscal year. This increase must be budgeted for prior to all other items each year. Combining decreased revenue with the expensive price of these items creates a difficult budgetary situation. Operating expenses are expected to be covered; however, less money is expected to go into the bond bill. He noted the bond bill has increased to record amounts in the past few years. However, with this impact, Newark will face more competition for less money than before. However, City staff have done well putting together presentations with great arguments for the bond bill in the past. He expected quality projects and materials to be submitted by the City.

Mr. DeChene shared the Marijuana Control & Oversight Committee had their first meeting a week prior. The meeting consisted primarily of organization, including decisions on the committee chair and meeting schedule. The meeting was in-person, but subsequent meetings will be virtual. The committee is certain to meet again in both February and September, but there are additional opportunities to meet across the next year as warranted. The Potomac Electric Power Company (PEPCO) provided presentations to discuss potential energy uses. They did not foresee any impact to the commercial market for providing energy to growing facilities. Because there are limitations on the size of these facilities in Delaware, it was determined that New Jersey may be a possible comparison. In New Jersey, there is a 250,000 square foot warehouse base that must be energized versus the Delaware limit of 12,500 square feet. Therefore, the energy needs in Delaware will be vastly different from those of New Jersey. Additionally, the Bankers' Association gave their presentation to explain how finances and money will be handled for these facilities. It will potentially mirror what has been done in other states. Finally, the Medical Marijuana Community gave their presentation, advising regulators not to ignore medical use when writing regulations. The expectation is that regulations will be made by this time in 2024, with point of sale taking place in January 2025.

Ms. Ford noted HB-127 will be reintroduced with Rep. Paul Baumbach as a sponsor. She reminded the Council had approved lobbying in favor of that bill this year. She hoped this bill would provide sustainable funding to fire and emergency medical services.

Mr. DeChene responded it is on his list to lobby in favor of.

Mr. Coleman stated he had been contacted by New Castle County to meet and discuss coordination of marijuana zoning in an effort to keep regulations consistent. Additionally, he noted staff has previously used spreadsheets to track bills for Council. However, these are not user-friendly. He shared that Mr. DeChene had provided a few examples of bill tracking software that the City could potentially utilize in the future. He and Jeff Martindale, Chief Procurement and Projects Officer, will be reviewing this in the next couple of weeks and may approach Council with a recommendation if the budget allows.

Ms. Ford stated she would like a formal process to approve the bills and improve the instructions given to their lobbyist. She suggested a spreadsheet where Councilmembers could individually mark what they believe the lobbyist should prioritize. This could then be brought forth and voted on in the same process Council would with their annual priority list. She noted there were multiple items in the prior year that were lobbied that she did not support.

Mr. McDermott asked if the lobbyist only provided the Council with a list of bills that hold interest in for the City.

Mr. DeChene responded they provided any bills that would impact the City along with its functions or services such as police and fire services.

Mr. McDermott asked if it would be too cumbersome to provide Council with all bills.

Mr. DeChene stated this is possible. He added the general assembly website displays all bills upon introduction. Between the House and Senate, there are approximately 200-300 bills introduced in both chambers each year. Historically, the lobbyists would narrow the list down to bills that would impact the City. He offered to provide information upon request if contacted individually. He was concerned that if he provided all bills, it would replicate the same list on the State's website.

Ms. Creecy asked if there would be a limit on how many bills each Councilmember could advocate for lobbying.

Mr. McDermott believed Council would need to discuss this with the City Solicitor to determine the best course of action. He recalled there mostly being a consensus among Council as opposed to an official vote when deciding what they wished their lobbyist to pursue. He believed the lobbyist worked for everyone on Council, so an individual Councilmember could request lobbying for a specific bill. He did not believe there to be an ordinance that required Council to vote or agree on what Mr. DeChene could lobby for or against.

Mr. Bilodeau stated previous practice has been to give direction to the City's lobbyist. In the past, this has been done by a consensus of at least four Councilmembers. He did not believe there to be a limitation on how many bills a Councilmember could advocate for.

Mr. McDermott acknowledged there were things lobbied for that were favored by one or two Councilmembers, as opposed to a group consensus. He believed Ms. Ford was suggesting there to be a formal vote on what is lobbied for. He asked if it was possible to implement this mechanism in the coming year.

Mr. Bilodeau confirmed it to be possible. He noted Ms. Ford's earlier recommendation of individually marking a list with each council member's preference, then bring that list to the dais for discussion.

Mr. Lawhorn noted Council has voted on items to lobby when they did not reach a consensus. He cautioned the use of a process requiring a vote on items, noting it could become disorganized. However, he believed Council could call for a vote if there is not a consensus on any items.

Mr. McDermott believed this could be the best path forward.

Dr. Bancroft noted there has been discussion of power rating. He believed there must remain a level of independent judgment given to Mr. DeChene based on his knowledge and experience in procuring funds from the State for the City. He believes they need to remain sensitive to the effects of tax increases to the taxpayers in Newark even on a State level. He noted an example of how this recently occurred regarding schools, which the City could lobby interest in that could have negative effects on taxpayers despite the initial expectations. He believed the portal that shows each bill, its amendments, and the committees it has been brought to is rather helpful for Council to learn from.

He additionally noted there has been discussion of the City charter and motioning to change the overarching document, such as increasing the lodging tax. However, it was his belief that Newark should not move too far ahead of other municipalities.

Mr. McDermott believed there to be a consensus that if any members believe a particular bill needs a vote, they can make one at that time.

4. B. THE NEWARK PARTNERSHIP – MARK AREHART DIRECTOR (15 MINUTES)

17:14

Mark Arehart, Executive Director, shared The Newark Partnership (TNP) has successfully relaunched their Economic Enhancement Committee. Caitlin Olsen, UD Administration, has been selected as the chair. Small business owners and stakeholders are being gathered to understand their visions, along with the City's, to bring a cohesive voice to Newark's economic development.

He stated TNP's Nonprofit Enhancement Committee has formulated an idea to help sponsor smaller level nonprofit programs and needs in Newark. They have established a microgrant structure for sponsorships, events, overhead, programming, and other functions. This would allow nonprofits to apply and receive that funding quickly for small projects. TNP identified this as a need in Newark's community.

Ms. Ford asked if there is a limit on the type of projects covered under these grants.

Mr. Arehart stated it has financial limit of \$500 per application, two applications per organization, and is capped at \$1K. It can be for anything a nonprofit desires, but is not automatically approved. At the end of every meeting, the committee reviews each application received. Then, it discusses the amount of money in budget, the programs being asked for, and how that meets TNP's mission. Every entity that receives the sponsorship must be a registered nonprofit organization and follow the necessary procedures. However, this microgrant aims to be open-ended and provide anything a nonprofit could need.

Ms. Ford asked if these nonprofits could range from religious to art committees.

Mr. Arehart confirmed the microgrant can cover a broad spectrum of nonprofits in the Newark area. He stated TNP has approved two applications so far but planned to advertise to additional nonprofit partners.

Dr. Bancroft thanked TNP for their involvement in these projects, believing them to be positive for the community.

Ms. Creecy noted she and Mr. Arehart discussed flags and possible vendors expand the existing flag program to African American soldiers who perished in the line of duty in World War II. Specifically, there was discussion determining they be placed on New London Road, Main Street, and South College Avenue. She, along with Mr. Arehart and Mr. Coleman, will continue to work on this initiative to gather a consensus. While the process may take multiple weeks, Mr. Arehart is searching for a reliable vendor for this project.

Mr. Arehart added a vendor must be reliable, stable and able to produce banners yearly. He was unsure of what the project's full scope would be, but there could potentially be a large group of individuals who qualify. He stressed TNP wishes to do their due diligence in honoring these individuals.

Mr. McDermott asked if TNP would hold the holiday window decoration competition again this year.

Mr. Arehart stated it will not be held this year due to the lack of a program director. While upsetting, there is currently not enough personnel to handle that project. This program is run by the Community Enhancement Committee, which have not met in the past few months. He is currently in the process of working to enhance the productivity of the committee so they can fulfill their duties.

Mr. McDermott found this unfortunate due to the significant involvement in event last year. He believed this to be a great low-cost activity to enhance community engagement.

Mr. Arehart wished TNP had the capacity for this project but found it worthwhile to hear it is still desired by the community and will be missed. He will make it a priority to ensure it is held again in 2024.

Mr. McDermott stated this program is a great example of the work TNP does for Newark. He believed these examples are important to showcase the organization's value to the city's residents.

Mr. Arehart noted this is an incredibly quick method to share brand recognition for TNP. He hopes TNP will be fully staffed next year when going into the holiday season.

Mr. Suchanec stated he does not believe a contest is necessary, as other merchants have already decorated extensively for the holidays. He stated holiday lights serve as an attraction for both residents and non-residents, even if they only briefly visit to see the display on Main Street. Additionally, multiple buildings have been outlined in white lights. He believed if more businesses followed suit, it would help them to stand out better.

He reminded Council believed it was necessary to eliminate holiday streetlight expenses to balance the budget. He believed Council will continue to favor removing these expenses when the budget is being discussed in future years. However, he did not diminish their importance in noting Newark as a

Delaware destination. He wondered if Newark could follow other municipalities where merchants could contribute to the funding of decorations instead of them being solely funded by the City. He asked Mr. Arehart to consider expressing this idea to merchants and businesses around Newark.

Mr. Arehart believed this would be beneficial to save money for the City's budget and to build corporate relationships along with potential sponsorships. This could help contribute to Newark becoming a holiday corridor in Delaware.

Mr. Suchanec noted the decorations of multiple cities downstate are helpful in evoking holiday enthusiasm.

5. 1. **FINANCIAL STATEMENT:** None

6. 2. **APPROVAL OF CONSENT AGENDA: (1 minute)**

- A. Receipt of October 2023 Alderman's Report
- B. Receipt of Planning Commission Minutes – October 3, 2023
- C. Receipt of Planning Commission Minutes (Review of 2023-2028 CIP) – October 17, 2023
- D. Utilizing Cash in Lieu of Open Space Funding for the Design and Engineering of George Read Park Walking/Jogging Trail and Budget Amendments to the 2023-2027 and 2024-2028 Approved Capital Improvement Programs
- E. Recommendation to Issue a Change Order Based on an Amendment to Contract 23-03 (Grass Cutting Services)

30:04

Ms. Schiano read the consent agenda into the record.

MOTION BY MS. FORD, SECONDED BY MR. LAWHORN: TO APPROVE THE CONSENT AGENDA AS PRESENTED.

MOTION PASSED. VOTE: 6 to 0.

Aye –Suchanec, Ford, Bancroft, Creecy, Lawhorn, McDermott.

Nay – 0.

Absent – 0.

7. 3. **RECOMMENDATIONS ON CONTRACTS & BIDS OVER CONSENT AGENDA LIMIT:**

- A. Recommendation to Award Contract 23-06 – Moss Court Outfall Stabilization (Capital Project Q2201)

31:17

Tim Filasky, Public Works & Water Resources Director, explained this project is in the stormwater utility. Additionally, it has been on the department's radar since 2013 after the previous temporary fix from the early 2000's failed. Recently, it has become worse after the exposure of a sanitary sewer line. The design phase has been completed, and the department is satisfied with the bids received for the project. The proposed solution has been proven to address similar slopes throughout the country. The department is eager to begin this project and address the sedimentary erosion within Newark's water ways.

The Deputy Mayor opened the table to Council comment.

There was no Council comment.

The Deputy Mayor opened the floor to public comment.

Michelle Zamboni, Swarthmore Drive, wished to address stormwater issues such as those mentioned by Mr. Filasky. She stated the residents of Swarthmore Drive have asked the City to address the flooding along their street for 15 years. She stated it has only increased every year, but the City has continuously responded they cannot afford to address the issue. She wished to know the City's thoughts or ideas on this topic.

Mr. McDermott asked for clarification on the problem.

Ms. Zamboni explained water runs down from Chrysler Avenue and Lehigh Road, turning onto Swarthmore Drive. There are two stormwater basins on the street, both of which are aged and not Code-compliant. The water from both streets continually flows onto and flood Swarthmore Drive.

Mr. McDermott stated this agenda item pertains to a specific project location. He offered Ms. Zamboni to email him to discuss this issue.

Ms. Zamboni stated there have been continuous discussions, but the City has only responded they cannot afford a solution.

Mr. McDermott clarified he is not familiar with the issue and offered to individually discuss it with her. He stated public comment at this moment must be regarding this specific project.

There was no further public comment, and the Deputy Mayor returned the discussion to the table.

MOTION BY MR. LAWHORN, SECONDED BY MS. CREECY: THAT COUNCIL AWARD CONTRACT NO. 23-06 TO THE LOWEST RESPONSIBLE BIDDER, ENVIRONMENTAL QUALITY RESOURCES, INC., IN THE AMOUNT OF \$390,830.00.

MOTION PASSED. VOTE: 6 to 0.

Aye – Suchanec, Ford, Bancroft, Creecy, Lawhorn, McDermott.

Nay – 0.

Absent – 0.

8. 3-B. RECOMMENDATION TO AMEND THE 2023-2027 CIP BUDGET AND AWARD CONTRACT NO. 23-02 – WATER MAIN REPLACEMENT (CAPITAL PROJECT W9308)

35:25

Mr. Filasky explained this project is similar to previous water main replacement projects but is a larger scope. While significant in size, staff have discussed that these water main issues must be addressed before they grow into a problem beyond control. Staff plan to use ARPA funding to address these identified problems.

He noted this project will cause disruptions. Several streets will need to be closed for periods of time, but there will be significant communication with the public beforehand. While there will be periods of water unavailability, it will be intermittent and will not last for prolonged periods of time. The project scope has been included in the recommendation – this includes the limits of Dallam Road, Ridge Road, and Kirkwood Highway. All have the extents on the road themselves.

Mr. Filasky stated staff are satisfied with the quote for this project. He noted the contract price and recommended award price have a difference of \$500K. Staff hope that if the project goes smoothly and the contractor is successful at reaching budgetary expectations, another area can be added to the end of the project.

The Deputy Mayor opened the table to Council comment.

There was no Council comment.

The Deputy Mayor opened the floor to public comment.

There was no public comment, and the Deputy Mayor returned the discussion to the table.

MOTION BY MR. LAWHORN, SECONDED BY DR. BANCROFT: THAT COUNCIL AMEND THE CAPITAL IMPROVEMENT PROGRAM PROJECT W9308 AS DESCRIBED AND AWARD CONTRACT NO. 23-02 – WATER MAIN REPLACEMENT, TO MUMFORD & MILLER CONCRETE, INC., OF MIDDLETOWN, DE, UP TO THE BUDGETED AMOUNT OF \$4,500,000.000.

MOTION PASSED. VOTE: 6 to 0.

Aye – Suchanec, Ford, Bancroft, Creecy, Lawhorn, McDermott.

Nay – 0.

Absent – 0.

9. 4. **SPECIAL DEPARTMENTAL REPORTS:**

- A. Potential Changes to Newark's Noise Ordinance for Consideration – City Manager (45 minutes)

38:43

Tom Coleman, City Manager, recalled previous discussions regarding noise. These discussions originated due to the installation of fans at the Newark Country Club. Throughout these discussions, staff identified many areas they believe could be improved in the noise ordinance. There are five items related to the process identified by the Code Enforcement Division, and three items identified which were requested by residents. Staff requests Council to discuss and provide feedback on each of these items so they can begin to prepare ordinances for introduction. Conducting this discussion now will help ensure the changes are implemented prior to next summer, when the fans will be used once more. In addition, general lawn care and maintenance is involved in this discussion. Staff wish for these changes to be implemented before spring.

Mr. Coleman began by listing each item to address. The first is to modify the sampling intervals for stationary sources of sound. Currently, the City Code requires a noise meter to run for a consecutive 24 hours. Those readings are then broken up into 4-5 separate times of the day, and weighted averages for each increment are created. The noise cannot exceed specific levels designated in the Code for each increment of time. However, issues can arise in waiting for good weather. If there is an equipment malfunction, an entire day of testing is lost. Additional days will be taken to send out an inspector on another optimal day. Staff's proposal is to reduce the readings to 15 minutes during each time frame. The inspector would be on-site to ensure there are no anomalies during the recording process. He noted a concern among staff is if the readings are challenged and the judge were to ask for confirmation there were no anomalies during the night, staff would be unable to confirm due to the lack of an inspector at the site overnight. Shortening the period to a 15-minute interval allows for staff to be more responsive, work around inclement weather, and conduct an overall smoother investigation.

He explained the second item is to modify the stationary source of sound's baseline level. The City Code specifies the maximum allowable noise levels for each time period throughout the day. He gave the example of how from 1 a.m. – 5 a.m., the maximum allowable noise level is 42 decibels. At this location, the noise level overnight is 42. This led to the question of what to do when the baseline already exceeds the allowable threshold. Staff recommend the baseline noise level and the Code-defined level be compared to one another. Whichever level is greater will be the maximum allowable level for that location. He gave the example of a house which is near I-95, where the baseline level will be higher due to the overnight traffic noise. This will address the variability occurring throughout the city.

Mr. Coleman stated the third item that needs to be addressed provides the definition of a sound level meter. The City Code currently requires a Class One meter, the same used in laboratories. This type of meter is incredibly expensive and not readily available. The Code rounds every level to an even number, meaning these meters would provide a level of accuracy that is excessive. Staff recommends changing this definition from Class One to Class Two.

He explained the fourth item pertains to the Code's outline for enforcement and penalties for noise violations. Currently, enforcement is limited to the Chief of Police, his designees, or the City Manager. Staff recommend allowing Code Enforcement Officers to take action when applicable as they already perform these tests. Recently, staff has become aware of the case law *Tanner vs. City of Virginia Beach*. This makes the "reasonable person" standard in Code not permissible for any criminal charges. Additionally, it is not predictable to a potential violator on what the enforcement level would be and what can legally be done. Under that opinion, staff must change "reasonable person" references from criminal charges to civil charges. They recommend creating a civil charge option for all other violations. Civil violations can be enforced more readily and rapidly by staff.

Mr. Coleman shared that modifying this process would include modifying the process to appeal. Currently, there is no way to appeal a decision to issue a violation under a criminal statute. Staff recommend that the Code be revised to allow appeals of civil noise violations to be heard by the City's Board of Building, Fire, Property Maintenance, and Sidewalk Appeals instead of Alderman's Court. This would allow complainants to appeal decisions and those who were cited to appeal their citations. If someone did not agree with the decision of the board, they could appeal further to the superior court.

He shared three additional items relating to quality of life. The first is a request to modify the requirements allowing grass mowing in residential zones on weekends beginning at 7 a.m. to not permissible before 9 a.m... Construction noise is already prohibited on Sundays and holidays before 9 a.m. The Newark Country Club has advised that the strict enforcement of a 7 a.m. start time for mowing grass on their entire property starting this past summer had caused them to push back the first teatime until

8:30 a.m. on weekdays and 8 a.m. on weekends. This is especially late for a golf course. The council may wish to consider allowing mowing earlier in the day if it is a minimum distance away from adjacent residential properties.

The second item is to modify allowable noise in residential zones on holidays. A resident requested that the City require a noise waiver for construction activity on City-recognized holidays. He noted it could negatively impact homeowners who plan work on their houses during holidays. Any requested work would require a waiver from the City Manager to do so, which could potentially become excessive.

Mr. Coleman explained the third item would be to specify the definition of lawn maintenance equipment. While reviewing the golf course fans, they were determined to fall under the category of lawn maintenance equipment due to the lack of definition. Lawn maintenance equipment is exempt from the noise ordinance when operating within the manufacturer's specifications, with all mufflers and noise reducing equipment in use and in properly operating condition between the hours of 7 a.m. and 9 p.m... Council may wish to define what falls under the parameter of lawn maintenance equipment.

The Deputy Mayor opened the table to Council comment.

Mr. Lawhorn thanked staff for compiling these proposals, requests and information together. He noted the City has recognized many issues with the noise ordinance due to the same problem over the past two summers. Through this one issue, they noticed how similar issues could affect many other areas throughout the City. He believed the first item is both critical and obvious, as currently completing these measurements is an incredibly difficult task. He found any test involving running 24-hour constant measurements to be very unrealistic and added more burden to an already difficult process. The main purpose of these tests is to determine the noise levels when devices are running and when not. However, the Code requirements of having to run them for a continuous 24 hours make it near impossible to complete. He found this recommendation to be a smart and reasonable change without any negative consequences.

He found modifying the baseline noise level both important and reasonable. He believes the existence of baselines already above the levels identified within the code invalidates Newark's Code. If a natural sound level is 45 because of the environment, but the Code states it cannot be above 42, the City must wonder how that can be justified or enforced in an appeals process. He believed the baseline with the addition of any noise would be a violation. If there is a value set that defines what is too noisy by meter reading, and then if the environment is already that loud, the City should not allow that to increase. He found it reasonable to reset the baseline based off the environmental noise. He believed this could be written in the Code and provide a clear definition as to what is in violation.

Mr. Lawhorn understood providing the sound level meter definition. He stated it is important to make sure these measurements are calibrated and accurate. He did not believe the City should buy a meter both cost ineffective and technologically unneeded. He found enforcement and penalties to be critical regarding this ordinance. He believed this becoming a criminal statute is problematic not only due to the cited case law, but because Code Enforcement Officers are more likely better educated in these matters. While police officers address matters such as loud parties, Code Enforcement Officers are better trained to handle subtle matters that pertain more to property violations.

He explained the reasonable person language has made this issue extremely difficult to address. The issue of the Newark County Club involved neighbors living next to each other that had varying opinions of the noise. He believed the same could apply to those investigating the problem as there could be differing opinions of the noise's reasonability. He believed a level of due process is crucial for these appeals when more individuals evaluate an issue and serves as a means for those involved. The lack of due process was an issue faced with the Newark Country Club, as there was an issue, but it seemed as if there was no outlet for it to progress. This process will help to simplify whether this is an issue that can be numerically measured, or due process must take it farther. The current Code makes it difficult to measure, but these factors would help to progress an issue to a resolution by simplifying and providing clarity to all steps within the process.

Mr. Lawhorn believed a discussion about modifying the weekend restrictions within the ordinance would be beneficial. His initial thought was even he would not cut his grass as early as 9 a.m... However, when sharing in his newsletter that Council would evaluate this ordinance, he received feedback from residents who felt they would have to perform lawn maintenance much earlier on days with extremely hot temperatures. He believes it is important to obtain community input in this discussion.

He acknowledged that holidays were periods where residents performed work on their houses and struggled with prohibiting construction noise completely on holidays. However, there is still a noise ordinance, so there must still be enforcement if it exceeds what is allowable. He was equally concerned the allowance and process of noise waivers would be burdensome for the City Manager.

Mr. Lawhorn believed it was wise to further define lawn maintenance equipment. He did not believe Newark Country Club's fans should be identified as the same type of equipment as lawnmowers and weedwhackers. He believed it would be beneficial to create a definition of what is exempt as lawn equipment.

Ms. Creecy believed the 24-hour recording and sampling process to be excessive and should be modified. She found the stationary source of sound and baseline level made sense when correlating to the base level of each area's standards. She believed shifting from Class One to Class Two meters was also reasonable. She asked if a new position would be requested in the Code Enforcement Division to enforce these noise requirements and whether it should be included in this ordinance.

Mr. Coleman stated it is dependent upon the number of complaints received. He noted police will still be able to respond and issue violations, particularly after business hours. The Code Enforcement Officers' involvement serves as an additional resource to handle these complaints.

Ms. Creecy believed it to be fair to add a process for individuals to appeal any citations received. Varying situations could create noise that can elevate to a nuisance; therefore, residents should be able to exercise their right to appeal. She concurred with Mr. Lawhorn in modifying the weekend ordinance, noting she typically cuts her own grass after 9 a.m.

Mr. Coleman stated under the proposal, it could be cut as early as 7 a.m. However, the request from the resident was for no earlier than 9 a.m.

Ms. Creecy noted there are landlords that have serviced contractors to mow the lawns of their properties, some early as 6 a.m. It would be difficult to deter their work.

Mr. Coleman responded 6 a.m. is currently considered illegal. He noted the City also begins cutting grass at 7 a.m...

Ms. Creecy was uncertain about modifying allowable noise in residential zones on holidays. She noted many residents want to relax and hold festivities with their loved ones. She believed the regulations should remain the same unless it exceeds a set time in the morning. She asked if the University of Delaware police would follow the same standard should the Council move forward with these proposed changes.

Mr. Coleman stated the same regulations would apply to university properties.

Mr. Suchanec hoped the affected parties mentioned would be able to voice their opinions on the impact of any proposed changes. He believed the sampling intervals should be modified, noting this involves comparing stationary sources to a base level. However, the base level may not necessarily be the standard. He gave an example of a situation where the base level is affected by traffic. He was unsure how stationary and environmental sounds could be compared to one another as the latter can fluctuate.

Mr. Coleman explained the environmental background levels will vary in every area of Newark. He noted this as the reasoning behind the proposed 15-minute sampling interval so a Code Enforcement Officer can monitor for any abnormalities during the reading. Additionally, this is so the baseline can be established based on the specifics of an individual location. This allows staff to customize the review to the experience of the person at the location and environmental factors that cannot be controlled versus those which can.

Mr. Suchanec still did not understand the establishment of individual baselines. He gave an example of how an individual living on SR-273 or Casho Mill Road would have a baseline impact by traffic. Such sounds are not stationary.

Mr. Coleman explained staff created a weighted average of the sound level. For example, the meter will take a reading every one second for fifteen minutes. Then, staff will average those readings. If a loud truck comes down the highway and affects the reading, then returns to the standard quiet, the reading will average out over the duration.

Mr. Suchanec asked if this meant staff would average out the baseline case-by-case.

Mr. Coleman confirmed this to be correct.

Mr. Suchanec was in favor of comparisons between the two levels. He also supported the change of the class of the sound meters. He supported shifting from criminal to civil enforcement, but stated the City was generally challenged in enforcing its Code due to an excess of Codes or lack of available enforcement staff. He was concerned whether management felt confident that they carry the appropriate manpower and skillset to support these changes if approved. He did not believe a Code should exist if it could not be properly enforced.

He was in favor of the proposed appeal process. When addressing the time to allow for lawn maintenance, he noted a lumber business in District 1 which starts work at 7 a.m... He had not experienced any complaints from his constituents regarding that noise. However, they do complain about the equipment which frequently blocks the right-of-ways. He was not concerned about the start time of this work as much as the end time. He noted he received more complaints of residents enjoying life in their backyards far before 9 p.m... Noise will affect that period more than at 7 a.m... He believed if the start time is to be addressed, then the end time must also be addressed. He favored changes to the end time as opposed to changing the start time. He supported modifications to allowable noise on weekends and holidays and further defining lawn maintenance equipment.

Ms. Ford agreed with all staff's recommendations. She greatly supported decriminalization of these violations, addressing it in civil court, and allowing Code Enforcement to address them. She believed it was more equitable in allowing individuals the opportunity to appeal. She also noted the proposed modifications to the start timing of allowable lawn maintenance in residential zones pertains only to weekends. She noted residents in her own area respected no noise permitted until 9 a.m. on Sundays and holidays. Residents have the right to enjoy these periods, as they could be the only periods working class citizens can sleep in without noise. In her neighborhood, no residents run their lawnmowers before 9 a.m. as a courtesy to each other. If they do so, their neighbors typically address them. She wished to see this change implemented in the Code.

Mr. McDermott noted noise before 9 a.m. is already illegal on Sundays and holidays.

Ms. Ford wished to prioritize the residents' quality of life on Sunday mornings.

Dr. Bancroft stated issues regarding noise are increasing with the ongoing development of technology. He was in favor of all proposed changes. He acknowledged there may be difficulties with restrictions on weekends and holidays but supported the idea. He appreciated the staff's work towards simplicity with these rulings and the involvement of Code Enforcement. The modifications to stationary timing, baselines, and meter types made sense to him. He found it reasonable to allow contractors to mow lawns at 7 a.m. during the weekdays but suggested a compromise could be made during the weekends. He believed daytime thresholds for noise could be addressed in the future. He supported Code Enforcement handling these civil violations along with the outlined appeals changes. He believed fans used on golf course grass were appropriately classified as lawn equipment.

Mr. McDermott asked if the shift from a Class One to Class Two meter would affect any enforcement in court. He additionally asked if there is a standard during a trial regarding these matters.

Paul Bilodeau, City Solicitor, stated he did not know of such a standard. He believed it to be acceptable to shift to this meter. This was supported by Mr. Coleman's statement that the prior meter is more accurate than needed and significantly more expensive.

Mr. Coleman stated the Class Two meter currently used is very accurate and calibrated by the City's tool before being used. While the Class One meter is more accurate than necessary, it is used to manufacture the Class Two equipment.

Mr. McDermott was in favor of shifting enforcement penalties from criminal to civil due to the situation that brought these modifications into consideration. He noted the staff also recommends that Council supplement the existing criminal violation process with a civil charge option for other violations. He asked if this pertains to violations such as loud parties.

Mr. Coleman confirmed. He explained there are more sections of the Code than the "reasonable person" standard referenced in the case law. There are objective violations, giving the example of exceeding 42 decibels between 2 a.m. and 5 a.m. This would not pose an issue of constitutionality such as the reasonable person standard, but a criminal charge would not be able to be appealed by a resident who is unhappy with the decision.

Mr. McDermott was concerned about who would decide if a case is criminal or civil when the option is presented.

Mr. Coleman expected the police would respond with criminal if they were to address a situation. The Code Enforcement staff would respond with civil if they were to do the same.

Mr. McDermott did not wish to enter a situation where the City is not equally enforcing its law. If students are subject to criminal violations and residents are subject to civil violations, the City could potentially be approached with legal action.

Mr. Coleman stated staff could consider implementing guidelines in the Code for cases where the choice is presented.

Mr. McDermott stated he wanted to ensure there were not two sets of standards. He believed when given an option, there is a possibility one shift could be stricter than the other. This could cause a lack of equality in addressing these violations.

He supported modifying sampling intervals. While supporting modifications to the stationary source of sound baseline levels, he was concerned this could potentially subject residents with high baseline levels to those even higher.

Mr. Coleman explained if this baseline is above the numerical value established within the Code, it cannot be exceeded beyond that level. This would only be a matter of defining the baseline as that higher value.

Mr. McDermott supported the noise meter shift, updated enforcement if fairly conducted, and the proposed appeals process. He believed time limits and noise during holidays need a larger discussion at a later meeting. He noted he has not received complaints from his constituents regarding lawn care at 7 a.m... He understood that while he preferred to start his day early, others may wish to start later. He supported redefining or specifically outlining what qualifies as lawn maintenance equipment.

The Deputy Mayor opened the floor to public comment.

Chuck Dressner, 505 Windsor Drive, wished to know the process to change the noise ordinance.

Mr. Coleman explained after Council and public feedback, staff will perform additional research if needed and develop a proposed ordinance. The ordinance would go up for first reading, then second reading with a public hearing. If it is approved at the second reading, it would be effective either immediately or at a select date if included in the ordinance.

Mr. Bilodeau added there are sometimes meetings with stakeholders to gather feedback prior to introduction. Currently, there is only a chance to provide public comments during the second reading, not the first. Staff can create the legislation and then provide it to stakeholders for feedback.

Mr. Dressner asked if it could be tweaked based on public comment during the second reading.

Mr. Bilodeau responded it could be tweaked before the first reading if stakeholders are given the opportunity for early feedback. If any changes made during second reading are substantial, the ordinance must be readvertised and heard again. Staff must try to implement any substantial changes before the second reading to avoid additional delays. He recommended allowing the public to see the ordinance and provide comments before the first reading.

Mr. Dressner reminded the Council he and his neighbors have dealt with this issue for an extensive period. He noted the fans were modified at 3½ horsepower. The residents of his neighborhood looked to eliminate the problem entirely but found this to be a decent solution. He believed they had been reasonable during this process, but the situation was not. He stated he received a proposal before the fans were modified to implement a 10-12 ft. opaque acoustic fence to separate him and his neighbors from the country club. This solution would block sunlight and take the view from the residents' backyards, and the country club would be unaffected.

While he believed the situation had been rectified, now the City wished to change the Code's definition of baseline. This would essentially pit a baseline average affected by periodic loud traffic against a fan that runs for twelve hours at the same decibel level. He believed these to be significantly different

from one another. He believed while the average could be changed, the source of the problem runs continuously.

Mr. Dressner stated he read documentation indicating Class Two meters have a margin of error of 3.5 decibels. This is against a differential of 5 decibels between baseline and a violating source of sound. He was concerned any margin of error could potentially affect the results. He worried the enjoyment of his property would be based on inferior equipment due to lack of manpower. Noting the recent tax increase, he stated he wished for increased attentiveness and presence of Code Enforcement staff. He asked Council to consider continuing to use the superior laboratory equipment, believing it to be more reliable.

He was concerned individuals subject to civil violations may continue to pay the fine continue violating the Code, despite being addressed by the Code Enforcement Staff. He wished for this to remain a criminal violation. He did not believe case law from another state should be used as a basis to move away from the reasonable person standard as it is still valid in Delaware.

Laura Deschere, 106 Delrem Drive, was concerned regarding the baseline of noise. While she considered the baseline of her backyard to be standard, noises such as dogs barking, traffic, and wind tend to increase the meters. This will increase an environment's baseline. She is used to a fluctuating baseline of noise, but the fans are both constant and higher than what she considered to be baseline. She found it important to consider both the duration and the quality of the sound in this assessment.

Alexis Vasko, 104 Delrem Drive, explained the fans were more of a disturbance due to their continuous use rather than increase of volume. She noted many of these residents wished to enjoy the outdoors as she did. However, when coming home from work to enjoy her backyard, the fans are already operating. While she appreciated the staff's willingness to bring order to this issue, she still held concerns that it could be addressed or enforced less strictly than necessary.

There was no further public comment, and the Deputy Mayor returned the discussion to the table.

Mr. Lawhorn noted the Council and staff are trying to provide clarity regarding the enforcement process. Noise violations, such as those referenced by the residents, can be extremely difficult to enforce and address. He explained there are two courses of action that could potentially be taken to combat this difficulty. One is a clearly defined, numerical measurement that is non-disputable and can result in the issuance of a citation. He believed there to be confusion regarding the baseline in the proposal, but also believed it to be an improvement. Not only should it be established, but it can also be referenced to justify issuing a violation. If the environmental sound is 45 decibels, but the Code prohibits sounds above 42 decibels, it creates an issue with enforcement. However, outlier noise such as loud periodic traffic also poses an issue. He stated a 15-minute measurement is important to allow a Code Enforcement Officer to note any abnormalities to eliminate those circumstances from the readings. While not perfect, he believed it to be significantly better than the current.

He stated a notable issue to consider is when sound is added and a difference is heard, but there is not a large difference in measurable volume. The lack of such a difference may not trigger a meter or violate that portion of the Code, but believed the reasonable person argument should be considered when this issue lies in the consistency of the noise, not measurable level. However, the verbiage of reasonable person will always have a level of interpretation and variability. He stated noise violations are difficult to manage, but a number provides clarity to measure them by and against. When this does not work, there would still be a level of discretion given to the Code Enforcement Officers to issue violations if the noise is obviously bothersome. By leaving "a reasonable person's" value, it provides the ability for an individual to use their own judgment. If an individual does not agree with a decision, they can address the Board of Building, Fire, Property Maintenance, and Sidewalk Appeals, and then superior court if necessary. He believed that while not perfect, these changes are a significant improvement. This would enable staff to provide a resolution much faster and give multiple outlets with levels of due process.

Mr. Suchanec hoped these changes would improve the enforceability of noise ordinances. He agreed continuity of noise to be an issue in these violations but was unsure how to enforce it analytically. He believed there to be a difference between stationary constant sound and the sound of things such as lawn maintenance equipment. While chainsaws could be active throughout the day, they do not make noise continuously for long periods of time. Residents can cope with the sound when they are aware it will periodically and eventually end. He believed there to be a difference between stationary sound and lawn care, the latter of which does not exclusively pertain to the Newark Country Club. Residents may need to cut grass as early as possible due to summer heat. Any facility that borders a residential property and conducts larger scale lawn maintenance is impacted by fluctuations in start times. Additionally, it

affects individuals' ability to safely maintain their properties. He wished to separate the idea of lawn care being a nuisance compared to stationary sound nuisances.

Ms. Creecy wished to assure Ms. Vasko that the voice of every resident matters. This discussion facilitates creating a permanent solution to an ongoing problem. She empathized with the stress and trouble with consistent sound, noting she lives near a train station. She assured Ms. Vasko that the City is striving to find a solution, though nothing has been finalized. The opportunity to provide public comment allows the residents' voices to be heard. She stressed the City cares about this issue, its residents and what they contribute to Newark.

Ms. Ford advocated for tranquil residential neighborhoods. She stated residents have a right to enjoy the peace and quiet of their own backyards. She did not believe any person should deal with constant noise. She believed this situation needed to be addressed. She is concerned there is a misunderstanding over whether civil law or criminal law provided more opportunity for enforcement. She noted the State is in the process of conducting a study regarding standards for sound following the passing of HB-35 last year. This could possibly impact Newark as the City makes changes to this ordinance. She asked if this has been considered when creating these proposed changes.

Mr. Coleman responded staff did not wish to delay this process by waiting for the State's study. It was his understanding that this study pertained specifically to vehicles. Staff will take any significant data from this study into consideration for future changes. He noted these violations would also count towards the nuisance property ordinance, which accrues violations quickly if they persist. This will continue affect the violators' financially. Additionally, each day a violation continues counts as a separate offense. Using the fans as an example, if they were determined to be in violation, leaving them on for a week would result in 7 offenses, stacked with fines. He did not believe any violator could afford to continuously violate and pay these fines.

10. 4-B. CHRYSLER AVENUE BICYCLE AND PEDESTRIAN IMPROVEMENTS STUDY – PUBLIC WORKS & WATER RESOURCES DIRECTOR – (20 MINUTES)

1:40:14

Mr. Filasky announced Andrea Trabelsi, Senior Project Planner, and Kelly Lockman, Landscape Architect, of Whitman, Requardt and Associates, LLP (WRA) were both in attendance this evening. Ms. Trabelsi was present for a similar report on Wyoming Road a few years prior. He noted the ideas presented are real but preliminary proposals. Further study, design, and funding would be needed to move forward with any of the concepts presented.

He stated there have been numerous opportunities for public participation throughout this process, and assured residents that their opinions and concerns are valuable and have been considered. If these proposals are to move forward and Council appropriates any funds or grant funding is received, staff will include all feedback that has been received.

Mr. Suchanec asked what prompted this study.

Mr. Filasky explained staff applied for and received a grant from the Delaware Bicycle Council. Staff generally identifies areas with frequent speeding complaints received from pedestrians and bicyclists. If grant funding becomes available, studies for those areas are conducted.

Mr. Suchanec asked if stormwater is being considered secondarily.

Mr. Filasky responded staff are already aware of the stormwater concerns in this area. When staff identified what area is affected, they determined there is funding to be able to include stormwater as an aspect to address in the project. While increasing the project's difficulty by making changes that accommodated stormwater, staff did not want these known concerns to be ignored.

Ms. Trabelsi explained she and Ms. Lockman were contracted to conduct a feasibility study to identify opportunities for stormwater and bicycle improvements. In May, they began reviewing current conditions, meeting with members of the community, and developing concepts for consideration. Additionally, they recently met with stakeholders prior to this meeting.

She explained the boundaries of the proposed project extend along Chrysler Avenue from Phillips Park to the intersection Elkton Road. This segment of the corridor is a part of the East Coast Greenway as well as Newark bikeways. She noted stakeholders expressed interest in opening Gravenor Lane as a potential alternative route. However, that recommendation is not the focus for this study.

Ms. Trabelsi explained WRA looked at several key factors when generating these concepts: safety, traffic volumes and speeds, bike level of traffic stress, connected bike networks, complete streets, physical constraints, stormwater management, and maintenance. Three documents offered guidance to their designs, including federal guidance on bikeway selection. These must be considered in the design phase to meet acceptable standards.

She stated Chrysler Avenue is a local roadway that serves approximately 1.5K vehicles per day. The speed limit is posted at 25 mph. There are no notable concerns, with approximately eight crashes in the last five years. While 85% of vehicles travel under 30 mph, a frequent concern from stakeholders is the remaining 15% travel at potentially problematic speeds. Therefore, a shared bike lane or bike boulevard is a suitable facility for a roadway of this speed and level of traffic.

Ms. Trabelsi explained bicycle level of traffic stress is a method of characterizing the bike network. Based on factors such as volumes and speeds of vehicles, it indicates how comfortable an average user would be on a roadway. In the green level, people of all ages would feel comfortable riding on this roadway. The levels from yellow to red include increasing stress levels of bicyclists. According to this rating, Chrysler Avenue is mostly green, but there is a segment in this corridor that qualifies under the yellow, slightly more stressful rating. This is predominantly related to speed.

She explained there was a walk-through meeting with stakeholders and members of the public in August. In feedback, there was emphasis on pedestrian access, especially for the elementary student-travelled crossing to Willa Road. There was general support for green stormwater and maintaining on-street parking.

Ms. Trabelsi explained several different possibilities were considered in the beginning. These were standard things ranging from the possibility of a shared travel lane, to a separate bike lane. To meet the project objectives and balance the needs of the community, they concluded the largest factor was the impact to on-street parking. She noted when bicyclists travel on the left-hand side of the road as opposed to the right, there are increased concerns regarding the abundance of driveways and intersections. Vehicles may not expect bicycles to travel from the opposite direction, therefore safety suggests these designs may not be suitable in this location.

She shared a diagram of the current condition of the 36-foot curb-to-curb roadway, including the location of any utilities. Next, she shared a diagram of the proposed recommendation: narrow road width, intermittently, complemented by planted green stormwater infrastructure (GSI) on either side and other traffic calming features.

Ms. Trabelsi summarized numerous ways to calm traffic. This includes bump-outs at intersections to narrow pedestrian crossing distance and slow traffic, chokers to accommodate stormwater planting and green infrastructure, and corner extensions with curb radii reduction to slow turns. In addition, planted medians and a mini roundabout were originally considered but were ultimately deemed undesirable after receiving resident feedback.

Ms. Lockman shared a map highlighting areas identified for traffic calming measures which was presented at previous stakeholder meetings. Differing options were shown for key areas and intersections at Elkton Road, Lehigh Road, and Shull Drive. Feedback was then collected from stakeholders. However, this evening's presentation will focus on feedback's preferred option.

On Chrysler Avenue, from Elkton Road to Lehigh Road, the main preferred traffic calming measures were bump outs, curb extensions, chokers, and reduced curb radii. The latter can slow turns and reduce crossing widths for pedestrians. All options would include improving the Americans with Disabilities Act (ADA) curb ramps and crosswalk markings at all intersections. Removal of impervious surface would allow space to potentially be used for plantings or grass. This will be determined in the engineering-design phase should this project continue. Chokers would reduce the curb-to-curb width, with proposed 11-foot travel lanes. She explained they are mid-block and would not be at intersections. Additionally, they can be made longer or shorter than what is shown in the proposal. Most graphics included, displayed a portion of retained on-street parking and posed no impact on existing driveways.

She noted all curb extensions proposed throughout the project have been designed to be cognizant of the adjacent property owners and retains a portion of their existing on-street parking. She shared these property owners have on-street parking on both Lehigh Road and Chrysler Avenue along with their driveways. Wayfinding signage is recommended as part of all options presented due to this street being both a Newark bikeway and a portion of the East Coast Greenway route.

She continued stakeholder feedback received included a strong desire for trees and GSI. For this reason, areas where this could be incorporated were identified. She shared an image proposing a flow-through planter due to the lack of an existing stormwater sewer drainage system in this portion of the roadway.

Ms. Lockman shared similar treatments including curb extensions with green areas and trees at Kenyon Lane. Bump-out inclusion could sacrifice some, but not all, on-street parking. A potential design for Swarthmore Drive includes curb radii reduction. If the project were to proceed, there is potential for additional analysis to identify other areas where reduced curb radii or bump-outs could be included.

She continued by sharing several options for the intersection of Shull Drive. The preferred option was to continue the bump outs. Additionally, this is the low point of the roadway where both drainage inlets and existing storm sewer systems can be found. Stormwater facilities could potentially be tied into the existing system. She noted the option of longer bump-outs would further reduce on-street parking. If this project were to proceed, that would be considered more closely, and they would take additional community feedback.

Ms. Lockman noted multiple areas which were identified for possible GSI, and two cost estimates were prepared. The first, is to have all the improvements, but only include the typical planting bed or grass area. The second, includes more extensive bio-retention GSI facilities at certain locations. An early part of this study included a high-level evaluation of the drainage in the area. She highlighted a potential section of the project identified for bioretention stormwater facilities. She reiterated this is a natural low point with an existing stormwater drainage system. She noted only Chrysler Avenue was analyzed in this scope of this project and not other roadways within the development.

She explained a typical bioretention facility could potentially connect into the existing storm sewer. This would include an underdrain and overflow pipes. In addition, a curb extension and radii reduction of the existing roadway would require relocating the drainage inlet. This is why two cost estimates are included, because an option that required more resources would cost more.

Ms. Lockman proceeded to share the two cost estimates: one without GSI that included standard planting beds and grass, and one with GSI. She noted design costs were included in the estimates provided. If this project is to move forward, an engineering firm would create the construction plans, the bid package would be advertised, and a contractor would be selected for the construction. As this process is not currently funded, it is included in part of the estimated cost. She added there was desire for pedestrian lighting. While pedestrian lighting is not included as a part of the project, a high-level cost estimate of this type of improvement was integrated due to expressed desire from the community. There is a desire from the community to open the gate at the end of Gravenor Lane to create a low-stress route between the two previously mentioned trails.

She showed a computer rendering of what Shull Drive to Apple Road could look like with the implementation of bump-outs and green infrastructure. It included reduced curb-to-curb width, ADA ramps, crosswalk markings, and plantings. The latter could potentially be grass, stormwater facilities, or a blended combination of the two.

The Deputy Mayor opened the table to Council comment.

Dr. Bancroft acknowledged there would be differing opinions but appreciated all of the options presented. He believed most to be worthwhile. He supported calming the streets as he has received many complaints of speeding within his district. He believed it filled the community desire for non-car transportation accommodations. Additionally, he believed the connection with the East Coast Greenway was beneficial to the City for marketing. He noted the frequency of flooding complaints received from this area, noting it is difficult for the City to solve flooding on private property, but these proposed changes can have a positive effect.

Ms. Ford asked if this project would involve sidewalk replacement throughout the development, the current deteriorated condition results in pedestrians jogging along the roadway. Additionally, she asked if the proposed stormwater management on Chrysler Avenue would resolve the issues presented by Ms. Zamboni. She wished to be informed of any plans to assist with this issue or if the City has already investigated it.

She added the images presented were beautiful, noting she always felt safe riding her bike on Chrysler Avenue. She asked if the pictures presented would be the true results of the project. She did not feel replacing sidewalks with a garden would make much sense. She believed Gravenor Lane would be a beneficial and less expensive alternative to this project.

Ms. Lockman explained the cost estimate includes the sidewalks that would be adjacent to the bump-outs and ADA ramps. She offered to do a linear foot calculation to see what the cost would be to replace the entire sidewalk on Chrysler Avenue if requested by the City. This project's scope currently does not include the entire sidewalk in its cost estimate.

Mr. Filasky stated staff are aware of and are planning to address the issue of flooding onto Swarthmore Drive. However, staff are also aware and concerned that whatever is done on this street will affect locations downstream. They do not wish to increase the size of the pipes and cause additional problems downstream as that will ultimately not resolve the issue on Swarthmore. To avoid this, staff hope to evaluate and make informed decisions, as well as obtain funding to move forward. Ideas and possible solutions will be discussed separately from this meeting.

He additionally noted the City does not maintain the sidewalks. If there is a sidewalk that needs to be replaced, it will be inspected by a third party for hazards. Currently, it would be the homeowners' responsibility to replace that sidewalk. However, if Council deems a larger project necessary for those repairs, it is their prerogative. Future maintenance of any plantings must be considered as part of this project, as the cost to maintain them is expensive.

Ms. Ford noted the burden of these sidewalks is typically carried by the homeowner. However, she hoped this project would include those sidewalks. It did not make sense to her if they were to remain unaddressed.

Mr. Suchanec wished for clarity on the problems this project would resolve. While beautiful and attempting to reduce speed, he worried bicycles and cars sharing the same lane could be dangerous. He believed a project such as what DelDOT completed on Delaware Avenue would be more beneficial. He wondered if that much bicycle traffic would be better accommodated by a separate pedestrian/bicycle lane.

Mr. Filasky stated this idea was eliminated during the study because there are many driveways and intersections on Chrysler Avenue and that solution does not accommodate the volume of bicyclists. When opening Gravenor Lane, there will be additional modifications needed to allow travel back and forth through this gate. However, if a large majority of traffic from this area of Chrysler Avenue is reduced, then a project of a different scope should be considered. As the funding portion of this project will be in future years, this discussion and decision process must come first before conducting additional studies. If the bicycle traffic is nearly eliminated, a smaller scope project could be considered to focus on pedestrians rather than bicycles. However, the gate at Gravenor Lane must open first.

Mr. Suchanec stated he witnessed many near accidents on shared roads in Newark's community. He stated drivers can behave impatiently and recklessly when trying to move around a bicycle. He appreciated the presentation. He agreed with Ms. Ford that it can be an improvement to the community and traffic flow if accurately accomplished. However, the results of a project may not always match the initial idea. Funding is also a challenge.

Mr. Filasky stated it would be discussed with Council at the appropriate time due to the continued fluctuation of the department's priorities.

Ms. Creecy asked how this project would affect parking. She additionally asked what residents could do to maintain the plantings installed in front of their properties should the responsible party not do so. She also asked if one of the pre-existing travel lanes could be carved out for bikes so there are still lanes coming and going.

Ms. Trabelsi noted the amount of green in the diagram shown and that its extent could vary. There is a trade-off that more green will mean less parking, and more parking will mean less green. The narrower curb radii at the intersections will have very little impact on parking but will have a significant impact and improvement on the pedestrian experience. Chokers and other extensions of the green space would be where parking becomes unavailable.

Mr. Filasky reiterated the maintenance of these planted areas would need to be discussed. He noted each area of the graphic she referenced currently has parking alongside each lane, with one lane going each way.

Ms. Creecy asked if parking would be reduced.

Mr. Filasky clarified it would be reduced in certain areas. There could be cross section areas at a curb radius where there could be green, but then moving down the street, it would return to similar conditions as it is currently.

Ms. Trabelsi stated the green in the first image could be exchanged for parking. However, in the second image, it is a typical section. If a portion of that roadway was taken away, one could only see the two travel lanes. Parking or planting could be in that place. These decisions would be made in design and negotiations with adjacent property owners.

Mr. Lawhorn noted he has experienced a similar process before and acknowledged it is subject to change. However, he appreciated its function. He supported the process where qualified individuals make recommendations and then directly communicate with the public in that area. Successful execution of this process typically leads to a positive result. However, Council would have to prove and justify where the funding for this project will originate.

He acknowledged the comments made about the sidewalks on Chrysler Avenue. He stated a solution to a similar problem in his district was to utilize staff pouring concrete in areas, paid for by the City, and then a resident would receive discounts as opposed to if they were to do it themselves. Potentially, if a resident cannot pay up front, it could be folded into their tax bill over a period of time. If the Council does not wish to fund the sidewalk project in its entirety, then residents could be given a discount on beautifying their neighborhood.

Mr. Lawhorn noted many resources have been poured into the stormwater fund. However, he did not really know where the money was being used. He asked for a list of the major projects using these funds to share with the residents when they bring issues forward. It will help to create an outline of where that money is planned to be spent and give an estimated timeframe for repairs that can be shared with the public.

Mr. Filasky stated this was included in the initial budget presentations. It mostly consists of pipe repairs, but Hillside and Abbotsford were other water quality projects.

Mr. Lawhorn understood there were specific areas that were targeted. He believed it would be easier for a resident to look in a place other than the budget. He believed additional transparency would help the residents determine if their issue is being addressed or if they must contact their Councilmember or staff.

Mr. McDermott found the project to be beautiful, but he was concerned about maintenance, funding, and where the project would fall on the priority list. He did not anticipate this project and was unaware there was an issue before this presentation. He stated funding and where it should be used will be a topic for later discussion. He believed the residents of this area would prefer the funding to go toward stormwater management.

The Deputy Mayor opened the floor to public comment.

Michelle Zamboni, Swarthmore Drive, believed there were flaws in the presented design. She believed the berms that would connect to the existing stormwater system would not work due to overload. She was concerned this would be a waste of money and began to share less expensive alternatives, such as stop signs to reduce the speed on Chrysler Avenue. She believed placing berms to prevent drivers from turning onto Chrysler Avenue from Elkton Road would also be beneficial due to the multiple alternative ways to access the neighborhood. Reducing the time that cars could make that turn was another suggestion shared.

While she liked the idea of trees on the street, she appreciated it's current generous width. She did not believe making the street smaller would increase safety or reduce speed. She believed stop signs and police presence would be more beneficial. She stated the residents of the neighborhood wished for the flooding on their street to end. With berms, the City would still have to do piping work to reduce the flooding, and the proposed bump-outs would need to be destroyed to do this. She did not believe work on Chrysler Avenue should be done before the flooding on Swarthmore Drive is resolved.

Bill Naylor, Swarthmore Drive, believed this study was beautiful but unnecessary for this road. He believed Chrysler Avenue was already a great street to ride bikes on. He believed the number of cars on the road during a 23-hour period is evenly spaced. This made for safe environment for bike riders. He stated speed bumps are a cheaper option to slow down cars and could be installed even if not necessary. However, the neighborhood needed more attention to stormwater. To prevent speeding on Chrysler Avenue, it will need to be changed from an open roadway to residential access only. He stated recreational

bicyclists and travel bicyclists were significantly different from one another. The latter would use main arteries throughout town and only use Chrysler Avenue for a small block. Gravenor Lane would be the best solution for recreational use. He did not feel there was a problem with the traffic on Chrysler Avenue. He advised there are better ways to use the money for this project, such as hiring more police. He believed stormwater on Swarthmore Drive is an issue that also needs to be addressed more urgently. He stated the water from Chrysler Avenue and Lehigh Road that drains to Swarthmore Drive has sometimes reached his knees. He theorized the pipes on the street were not up to Code when installed. He felt the proposed project did not need to be this large to address the issue. He would consider moving if Chrysler Avenue resembles Delaware Avenue after this project is completed.

Barb Hughes, 727 Chrysler Avenue, greatly supported this project. She is a bicyclist that leads the first Friday ride in Newark. In the 30 years she has lived in her house, she has witnessed many near accidents in her neighborhood. Many vehicles passing through the neighborhood drive at 45 mph. She had asked if she could have a bump-out in front of her home and offered to take care of the native plants in front of her yard. She stated many in her neighborhood were interested in this project. However, she agreed stormwater on Swarthmore Avenue must also be addressed. As a longtime resident of Chrysler Avenue, she believed this study would benefit the community and slow traffic speeds. She stated many residents of the neighborhood are young families who have children learning how to ride bikes. As an avid bicyclist, she believed this project could help to introduce safe biking for children and would be beneficial.

Julia Vanderveur, 817 Kenyon Lane, supported the study. She was aware that it would be a big investment. She agreed with Ms. Ford that addressing the sidewalks is also critical to this neighborhood noting she walks in the street at night to avoid tripping on them. She believed having the police enforce the speed limit would still be beneficial despite the traffic being slowed. However, she was concerned about bump-outs at the corner to turn from Elkton Road onto Chrysler Avenue due to the fact cars already need to slow from speeding at that turn. She believed this to be a reason that Gravenor Lane could be a beneficial alternative.

Michael O'Neal, District 2, owns four properties on Chrysler Avenue that would be affected by this project. He did not believe the City needed to sideline one project for another. He noted, over the past 18 years, he, and his neighbors, have complained about the traffic throughout the neighborhood. Traveling on Chrysler Avenue and making one singular turn avoids the five stoplights it would take to get to South College Avenue by continuing on Elkton Road and turning onto Park Place. He stated drivers do not stop at the existing stop signs in the neighborhood. This study will try to constrict the crosswalk areas and slow traffic, and suggested finding another solution if they do not approve the one presented this evening.

He stated many cars travel on this road throughout the day and many do not pay attention to children, pedestrians, or bicyclists. He stated this project will help to address traffic safety issues. He believed increasing pervious service and decreasing pavement would also be beneficial. While not addressing the stormwater issue, it will help to convert pavement to green and create water management areas on the street. Stormwater is a separate issue which must also be addressed, along with the condition of the sidewalks. He hoped this project would help to solve at least one problem in the neighborhood.

Mr. Naylor added a reminder that Chrysler Avenue was resurfaced in the last two years and suggested Council consider how much money to spend on restructuring a newly paved street.

There was no further public comment, and the Deputy Mayor returned the discussion to the table.

11. 4. ITEMS SUBMITTED FOR PUBLISHED AGENDA:

- A. Council Members:** None
- B. Others:** None

12. Meeting adjourned at 9:34 p.m.

Tara Schiano
Director of Legislative Services
City Secretary

/jh